IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Writ Petition No.21689 of 1997

DATED 15-2-2007

BETWEEN

L.Sudhakar Rao

.. Petitioner

And

The Depot Manager,
Andhra Pradesh State Road Transport Corporation,
Narsampet Depot,
Narsampet, Warangal District and another.

.. Respondents

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.21689 of 1997

ORDER:

In view of the law laid down by the Supreme Court in **Managing Director, ECIL v. B.Karunakar**[1] failure to supply a copy of the enquiry report and giving an opportunity to the delinquent employee, before imposition of punishment is in violation of principles of natural justice. On the ground as to whether failure by the employer to do so, in this regard, would necessitate the employee to be reinstated into service with consequential benefits, the Supreme Court held, eventually the test was one of prejudice

and that even in cases where an enquiry report has not been furnished earlier, a copy of the enquiry report should be caused to be furnished to the delinquent employee and he should be given an opportunity to establish as to whether or not prejudice was caused to him for the employers failure in not furnishing to him a copy of the enquiry report and denying him the opportunity of submitting his objections thereof.

The learned standing counsel for the Corporation would fairly agree that a copy of the enquiry report has not been furnished to the petitioner herein prior to imposition of punishment.

In the circumstances, ends of justice would be met, if the order of the appellate authority is set aside and a copy of the enquiry report is directed to be furnished to the petitioner by the appellate authority and the petitioner is given a reasonable opportunity of submitting his objections, both to the findings of the enquiry officer and with regard to the prejudice caused to him in not supplying a copy of the enquiry report to him earlier. It is also open to the petitioner to raise all such contentions, which are available to him in preferring an appeal against the order of the disciplinary authority under the regulations. The appellate authority shall examine the matter first from the point of prejudice and thereafter consider the other contentions raised by the petitioner in his appeal. The appellate authority shall cause an enquiry report to be furnished to the petitioner within two weeks from the date of receipt of a copy of this order. The petitioner shall submit his representation within two weeks thereafter and the appellate authority shall pass appropriate orders thereupon within a period of two months from the date of

receipt of the petitioners' representation. The impugned order of the appellate authority is set aside. It is needless to state that the order of the disciplinary authority shall continue to remain in force in the interregnum.

The writ petition is disposed of accordingly. No costs.

RAMESH RANGANATHAN,J

Dt: 15.2.2007
msv.

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[1] AIR 1994 SC 1074